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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT TACOMA

8 EDWARD PAUL GILLIGAN, et al.,

9 Plaintiffs,

10 v.

11 ROBERTA F. KANIVE, ARNP, et al.,

12 Defendants.

Case No. C11-5061BHS

ORDER ADOPTING REPORT
AND RECOMMENDATION IN
PART AND RE-REFERRING
ACTION

This matter comes before the Court on the Report and Recommendation (“R&R”) of the Honorable J. Richard Creatura, United States Magistrate Judge (Dkt. 24).

On December 21, 2010, Plaintiffs Edward Paul Gilligan (“Gilligan”), Steven Lynn Brooks (“Brooks”), Derek James Staton (“Staton”), and Thomas Randel Hargrove (“Hargrove”) filed a civil rights complaint against Defendants Roberta F. Kanive, ARNP; Timothy Panek, ARNP; G. Steven Hammond, Chief Medical Officer; and the Washington State Department and Corrections (“Defendants”) in the Superior Court of Washington for Thurston County. Dkt. 1. On January 21, 2011, the matter was removed to this Court.

On May 24, 2011, Gilligan filed a motion to voluntarily dismiss. Dkt. 21. On June 1, 2011, Brooks filed a motion to dismiss his action. Dkt. 22. On June 8, 2011, Staton filed a motion to dismiss his action. Dkt. 23. Defendants did not respond to any of these motions.

On July 6, 2011, Judge Creatura issued an R&R finding that all plaintiffs wish to be dismissed from the action. Dkt. 24. On August 4, 2011, Defendants filed a motion for

1 summary judgment requesting that the Court grant summary judgment on all of the claims
2 brought by Hargrove. Dkt. 25.

3 The Court adopts the R&R as to Gilligan, Brooks, and Staton. The Court declines to
4 adopt the R&R as to Hargrove because Hargrove has not affirmatively sought dismissal of
5 his claims and Defendants have requested summary judgment on his claims.

6 Therefore, the Court has considered the R&R and the remaining record, and no
7 objections to the R&R having been filed, does hereby find and order as follows:

- 8 (1) The R&R is **ADOPTED in part**;
- 9 (2) Gilligan, Brooks, and Staton's motions (Dkts. 21, 22, & 23) are **GRANTED**
10 and their claims against Defendants are **DISMISSED**; and
- 11 (3) The action is **RE-REFERRED** for the consideration of Defendants' motion
12 for summary judgment (Dkt. 25) against Hargrove.

13 DATED this 10th day of August, 2011.

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16 BENJAMIN H. SETTLE
17 United States District Judge